

## **DECLARATION OF LEAH EVERT-BURKS**

I, Leah Evert-Burks, declare and state as follows:

1. This declaration is based upon my personal knowledge of the facts stated herein or on the business records that were made at the time or in the regular course of business. If called as a witness I could and would testify to the statements made herein.
2. I have been an employee of Deckers Outdoor Corporation, Goleta, California, ("Deckers") since 2007. I have held various positions with Deckers, all of which have related to Deckers' UGG Australia brand. Since 2009 I have been Director of Brand Protection for Deckers. I am knowledgeable or have access to business records concerning all aspects of the operation of the UGG Australia division, including (but not limited to) its trademarks, copyrights, other intellectual property, sales, on-line sales, advertising, marketing, media coverage, and international operations. I make this declaration from matters within my own knowledge save where otherwise stated.
3. Deckers holds registrations for the trademark UGG® (and stylized variations) (collectively "the UGG Trademark") in more than 100 countries around the world including in the United States (Reg. No. 3,050,925). A copy of the U.S. Registration Certificate and a list of select registrations are attached as Exhibit 1. To the best of my knowledge, all of Deckers' trademark registrations are valid, subsisting, and owned by Deckers.
4. Continuously from 1995 to the present, Deckers has done business under the trade name UGG Australia. Since well prior to 1995, Deckers' predecessors traded as UGG Australia. Our company is well known in the footwear industry and luxury goods markets as UGG Australia.
5. Deckers extensively markets the UGG brand in the United States and other countries and (together with predecessors) has spent tens of millions of dollars since 1979 to build the UGG brand. Deckers invests millions of dollars a year marketing its UGG brand.

6. Exhibit Numbers 2-4, 6-7 and 9-21 attached and referenced herein are true copies of clipsheets prepared by Deckers that show UGG brand advertising and other media coverage, true copies of unsolicited media coverage of the UGG brand or true copies UGG brand advertisements.
7. Deckers' innovative marketing and product design have earned the UGG brand numerous awards and accolades including 2003 and 2011 Brand of the Year honors in *Footwear News* (Exhibit 2) and 2004, 2007, 2008, 2009 and 2010 Brand or Boots of the Year honors in *Footwear Plus* (Exhibit 3), two leading industry publications. Deckers was also selected as one of Forbes Best 200 Small Companies for multiple consecutive years (Exhibit 4).
8. Deckers' extensive marketing and innovative footwear designs have led to unprecedented growth in UGG brand sales. In 2011, the brand experienced its 14th straight year of double digit sales growth and Deckers' UGG brand annual sales have increased from \$18.3 million in 1995 to \$1.37 billion in 2011. The table below sets forth accurate sales figures for Deckers' brand the last several years. All of these sales were made using the trade name UGG Australia and the UGG Trademark. Exhibit 5 is a true and correct copy of excerpts from Deckers annual report for 2011.

<u>Year:</u>	<u>Sales</u>
2011	\$1,377 Million
2010	\$873 Million
2009	\$711 Million
2008	\$581 Million
2007	\$347 Million
2006	\$211 Million
2005	\$171 Million
2004	\$116 Million
2003	\$35 Million

9. An October 27, 2008 article in *Footwear News Magazine* entitled “UGG Gives Footwear Retailers a Big Boost,” details the strength of UGG brand sales in an otherwise flat footwear market. (Exhibit 6). A 2010 *Wall Street Journal Magazine* article entitled “The Golden Fleece” further discusses the popularity of the UGG brand. (Exhibit 7).
10. Since at least as early as April 1999, Deckers has operated a website where it promotes and sells genuine UGG brand footwear at <[www.uggaustralia.com](http://www.uggaustralia.com)>. Exhibit 8 is a true copy of a portion of the <[uggaustralia.com](http://uggaustralia.com)> website. Deckers also uses other domain names which redirect to this location. Deckers had 2011 ecommerce sales totalling over \$98 Million of UGG brand footwear. (*See Exhibit 5, supra*).
11. Numerous magazines and newspapers have written stories about the widespread popularity of the UGG brand including *Entertainment Weekly* (Exhibit 9). The continual success and popularity of the UGG brand as a highly sought-after item (including through Internet sales) is reflected in search term results on popular online search engines and auction sites. The *Wall Street Journal* reported that “UGG boots” was the most searched-for apparel item for the four week period ending December 3, 2011. (Exhibit 10). According to *Time Magazine*, the three most searched fashion terms on the Internet over the 2007 holiday season were UGG, UGGS, and UGG BOOTS. (Exhibit 11).
12. The UGG brand has also become well-known as being a favorite of internationally known celebrities, many of which are featured in photographs published on the Internet including Kate Moss, Sienna Miller, Hilary Duff, Jennifer Aniston, Eva Longoria, and Teri Hatcher. (Exhibit 12). Widespread and international media coverage for the UGG brand in multiple fashion and celebrity-oriented magazines has occurred in the U.S. and elsewhere, including articles in *Elle* (Exhibit 13) and *Vogue Australia* (Exhibit 14). Deckers augments this unsolicited media coverage with extensive paid advertising in upscale luxury magazines worldwide such as *Elle* (Exhibit 15); *Glamour* (Exhibit 16); and *Vogue* (Exhibit 17).
13. Media exposure of the UGG brand is not limited to print periodicals. UGG boots have also been featured on many television shows seen around the world, including *Sex and the*

*City* (Exhibit 18) and the popular game show *Jeopardy!*. (Exhibit 19). UGG boots have also been feature on the Oprah Winfrey Show where Ms. Winfrey has named a Deckers' boot as one of her favorite things in her annual "Holiday Favorite Things" segment five times including 2000, 2003, 2005, 2007 and 2010. (Exhibit 20).

14. The widespread fame of the UGG brand for footwear has allowed Deckers to successfully extend the brand into clothing and accessories. (Exhibit 21).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15 day of March, 2012, at Goleta, California.



Leah Evert-Burks